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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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APR 13 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of Request for)	
Review by Integrated Systems)	
and Internet Solutions, Inc.)	
of Decision of Universal)	
Service Administrator)	
)	
Federal-State Joint Board)	CC Docket No. 96-45
on Universal Service)	
)	
Changes to the Board of)	CC Docket No. 97-21
Directors of the National)	
Exchange Carrier Association)	
Inc.)	
)	
Tennessee State Department)	Application No. 18132
of Education, Application)	
(FCC Form 471) for Approval)	
of Funding)	

To: The Commission

OPPOSITION TO REQUESTS FOR REVIEW
FILED BY THE STATE OF TENNESSEE AND
EDUCATION NETWORKS OF AMERICA

Ramsey L. Woodworth
Rudolph J. Geist

WILKES, ARTIS, HEDRICK & LANE,
Chartered

Attorneys for Integrated Systems
and Internet Solutions, Inc.

1666 K Street, N.W., Suite 1100
Washington, DC 20006
202-457-7800

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Integrated Systems and Internet Solutions, Inc. ("ISIS 2000") hereby opposes the requests for review in the above-referenced matter filed by the State of Tennessee Department of Education ("Department") and Education Networks of America ("ENA").¹

¹ While the Department's and ENA's appeals have been directed to the Common Carrier Bureau, ISIS 2000 requests that they be acted upon by the full Commission along with ISIS 2000's pending Request for Expedited Declaratory Ruling and Request for Review in Part of the Fund Administrator's Explanation of Funding Commitment Decisions. Commission review pursuant to Section 54.722(a) is appropriate in view of the

I. Introduction and Summary

Both the Department and ENA simply reargue their prior pleadings and, whenever it is contrary to their position, ignore the substantial factual record contradicting their basic claim that nothing more than a routine application for Internet access is at issue in this matter. ISIS 2000 has previously set forth its position on these matters and, more importantly, supplied the SLD and the Commission with an extensive undisputed factual record showing the true nature of the underlying transaction between the Department and ENA.² This undisputed factual record speaks for itself and paints a picture substantially different from that depicted initially by the Department in its application and now by the Department and ENA in their appeals of the denial of that application.

By requesting "creative" bid proposals which sought to maximize the amount of USF funding for a fixed Department expenditure and fashioning bid selection criteria designed to select the highest pre-discount price that could be obtained, the Department literally invited prospective bidders to "game" the process as much as possible. While made aware of ISIS 2000's specific concerns that the ensuing

importance of the issues presented to the overall administration of the Schools and Libraries Program.

² Attachment 1 hereto lists ISIS 2000's pending Request for Expedited Declaratory Ruling and subsequent pleadings, including the documentary information supplied in each filing. While the most relevant excerpts from the Department's Request for Proposals and resulting ENA Bid Proposal are included in ISIS 2000's prior filings, we will be happy to supply a complete copy of each document upon request.

proposed award to ENA violated fundamental USF funding rules, the Department elected to proceed at its own risk.

Under the Commission's rules, the SLD's role is limited to the processing of applications under the Commission's rules and policies. Questions of rule interpretation are left to the Commission to resolve. Within these confines, the SLD has done an admirable job in piercing the veil of the Department's application and basing its denial on clear and well-understood interpretations of existing program qualification rules. In acting upon both the pending appeals and ISIS 2000's pending Petition for Expedited Declaratory Ruling, it is now incumbent upon the Commission to address the broader questions of rule interpretation raised by the Department's "creative" application. For if its defense of the application is correct and the definition of "Internet access" is as vague and open-ended as it contends, all parties including ISIS 2000 are entitled to know so that they can play the game by the same rules.

The Department has contended that its application is no different from many other applications that were granted by the SLD, citing without further specific information applications submitted by several other unnamed entities (Department Request for Review, pp. 26-27).³ As other applications are not public, we have no way of examining the basis, if any, for the Department's contention. Even

³ While the Department's Request for Review (footnote 37) cites an Attachment 1 to the Request as further support for its contention, no Attachment 1 was submitted with the Request for Review.

assuming, however, that a single element of equipment or service perceived to be similar by the Department was funded by the SLD in a particular instance, we highly doubt the overall situation is analogous to the creative scheme fashioned by the Department and ENA for the construction and operation of a privately owned statewide telecommunications network funded largely out of USF funds under the guise of a funding request solely for Internet access.

II. The SLD Correctly Pierced the Veil of the Scheme to Examine the Actual Substance of the ENA Contract, Rather Than the Facade of Internet Access Represented in the Application.

Plainly, under its program integrity procedures, the SLD is not limited to the four corners of the applicant's Form 471 request in making determinations of funding eligibility. Rather, the SLD has the clear responsibility to review the underlying substance of a funding request and base its decision on the actual facts and substance of the situation, as opposed to only what may be depicted in the application. Just because the Department has elected to depict a very complex contractual arrangement to fund the expansion and operation of its statewide network largely out of USF funds as an arrangement for the provision of Internet access does not mean that the SLD must blind its eyes to the true nature of the transaction. This is precisely what the SLD did in correctly basing its denial of funding on the actual non-eligible elements of the transaction, rather than

limiting its inquiry to the facade of Internet access presented in the Department's Form 471 Application.

In this respect, the SLD's specific denials of funding eligibility applied express FCC rules going to the heart of the Schools and Libraries program. Moreover, they were correctly applied to ineligible equipment and services which are part and parcel of a broader scheme to circumvent USF funding rules.

It is these broader questions which the Commission must now address in reviewing the SLD's determinations. First, the Commission is required to address the issue of whether an applicant may solicit and select the highest pre-discount price. As shown in ISIS 2000's Request for Review in Part, the record is clear and unequivocal in this respect. In the evaluation of cost factors, the ENA proposal was preferred by the Department solely and expressly because it was the highest pre-discount price bid for the requested services. Under the Department's undisputed cost proposal analysis formula, the "Proposal with the Highest Cost Factor" (Department RFP ¶6.2.7, i.e., the highest pre-discount price) received the maximum points (30) in the evaluation of cost considerations, whereas a lower pre-discount price received fewer points. The greater the gap between the higher and lower pre-discount price proposals, the fewer points awarded to the lower pre-discount price proposal. Thus, for example, if ENA had bid an even higher pre-discount price for the contract, it would have received a

more substantial and decisive preference over ISIS 2000 in the Department's evaluation of the cost aspects of each proposal.⁴ This is simply not the way the requirement for competitively bid contracts based on the evaluation of lowest pre-discount price (\$54.504) was intended to work.

Second, and inherently related, the substantial issues raised by the improper use of a wash transaction to inflate the amount of local expenditure for purposes of calculating the USF discount payment must be addressed. Based on the Department's 3½ year expenditure ceiling of \$17,780,000, this should have resulted in a pre-discount price (assuming the RFP's projected 66% discount level) of \$52,294,117, producing a USF fund payment of \$34,514,117. However, by purporting to sell the ConnectTEN network to ENA for \$7.5 million and simultaneously offsetting this paper transaction with a \$7.95 million charge from ENA for use of the existing ConnectTEN network, the Department's assumed contribution (Total State & Local and Other Funds) is increased to \$25,280,000, thereby supporting a much higher pre-discount price of \$74,352,941 and leveraging \$49,072,941 in USF funding. The ENA contract is clear in this respect:

The payment for the ConnectTEN network [\$7,500,000] will be received as a credit that will be applied by the State against invoices received from ENA by

⁴ For example, if the amount of "Other Funds" resulting from the so-called sale of the ConnectTEN network to ENA were to be doubled from \$7.5 to \$15 million, this would have produced a pre-discount price of \$96,411,764. In that event, ENA would have received the same maximum 30-point award for its cost proposal, but ISIS 2000 would have received only 13.57 points on this factor, thereby significantly increasing the extent of the preference to ENA for cost factors.

September 30, 1998 for basic services [\$7,950,000]. If it is determined by the State, in the State's sole discretion, that such payment arrangement is not authorized, then ENA shall pay the State of Tennessee the purchase price for the network by cashier's check or similar form acceptable to the State, on July 1, 1998.

The Department has provided no information as to how this transaction was completed. Even if it is assumed, however, that the Department had required payment by the actual transfer of funds, this would have been no more than a temporary transfer of funds until they were transferred back to ENA for payment for the continued use of the network.

As a direct result of a transaction having no actual economic meaning or consequence to the Department or ENA, this transaction alone increased projected USF real-dollar funding by over \$14.5 million over the 3½ year term of the contract.⁵ While presented with this issue on several occasions, neither the Department nor ENA has offered any satisfactory explanation or reasonable economic basis for the transaction. Again, this is not the way the USF program was intended to function.

In earlier pleadings, both the Department and ENA first claimed that this transaction involved the bona fide purchase of the ConnectTEN network by ENA for \$7.5 million. (Department Opposition, p. 3, ENA Opposition, p. 15, ENA Supplement to Opposition, p. 3,). After ISIS 2000 provided

⁵ See ISIS 2000 Supplement to Objection to Application and Request for Expedited Declaratory Ruling, filed April 20, 1998, pp. 2-7, Second Supplement, filed June 12, 1998, pp. 2-4. At the 69% discount level actually requested in the Department's application, the additional USF funding created increased to almost \$16,000,000.

the Commission with the actual approval letter from the State's Information Systems Council, the Department still maintained basically the same story. Citing to the minutes of the Information Council's meeting, incorrectly characterized as the "official sale letter,"⁶ the Department stated:

This document officially transfers the ConnectEN Network to ENA, based on the unanimous decision of the State's Information Systems Council approving "the sale to the Contractor of the State's interest in the ConnectEN project for \$7.5 million." Thus, this is not a right-to-use, contrary to ISIS 2000 intimations. (Department Consolidated Response, pp. 15-16)

However, the Information Systems Council's actual letter notifying ENA on May 27, 1998, of its approval was more forthcoming with respect to the exact nature of the transaction, expressing qualifying the action to approve only the sale of an interest involving ENA's "exclusive use, but not ownership, of ConnectEN hardware until it is replaced: At that time, the hardware will be returned to the State." (ISIS 2000 Second Supplement to Objection to Application, June 12, 1998, Attachment 2).

Now, ENA concedes that it did not buy ConnectEN, but merely "obtained software from the State along with the right to use the routers . . . (emphasis added)" (ENA Request for Review, p. iv). But the Department in explaining in its Consolidated Response that it sold the

⁶ The Department did attach the minutes from a meeting of its Information Systems Council ("ISC"), but failed to attach the more explanatory and more detailed letter from the ISC which the Department cited in the pleading.

State's "interest" in ConnectTEN to ENA, stated this transaction was not a "right-to-use" ConnectTEN.

The failure of the Department and ENA to provide a consistent explanation regarding what exactly is involved in the \$7,500,000 "sale" transaction is extremely suspicious, to say the very least. It is also quite suspect that although the extent of what allegedly has been sold keeps getting smaller, there was never any re-negotiation of the \$7,500,000 price tag for whatever was sold. This alone demonstrates that this transaction had absolutely no net economic effect as neither party appeared to have any concern whatsoever regarding the price attached to the constantly changing substance of a multi-million dollar transaction.

The SLD was not taken in by this illusory wash transaction. In its refusal to fund the Department's \$7.95 million one-time payment to ENA (for the use of the Department's own ConnectTEN network), the SLD appropriately saw straight through the veil of this scheme as an attempt by ENA and the Department to circumvent the Commission's rules on funding of pre-existing internal connections and an attempt to inflate the contract price to reap more USF funding benefits. ISIS 2000 specifically requests a reasoned decision by the Commission on the appropriateness and validity of this transaction under the USF program rules.

III. Internet Access is Not an Open-Ended Concept that Can Include Anything Desired by the Applicant.

In its pleadings on the record in this proceeding, ISIS 2000 has already amply demonstrated that ENA intends to use any funding the Department receives for far more than simply providing Internet access to Tennessee public schools. In addition to claiming that ENA will merely be providing Internet access to schools, ENA and the Department now claim that ENA is a "regional Internet service provider ("ISP")," who is no different than any other regional ISP (Department Request for Review, p. 2).

In claiming that ENA is nothing more than a regional ISP, however, the Department has ignored that ENA has no other customers, no established rates or practices against which to judge the reasonableness of its rates, little or no assets, and no established facilities equipment or network whatsoever. The fact is, when it "took over" responsibility for the operation of the Department's existing and operating state-wide ConnectTEN network on July 1, 1998, ENA was an entity that existed largely on paper, and had few employees besides Albert Ganier. It simply took over the ConnectTEN network monitoring and help desk functions from ISIS 2000 and operational responsibility for the Department's ConnectTEN network (which today consists of Internet access purchased from the State of Tennessee, local loop ISDN lines purchased from BellSouth and other incumbent carriers, and

routers on school and county seat premises owned by the Department).

Looking strictly at the Internet access component of ENA's overall contract, basic Internet access is purchased for about \$2 million per year from the State of Tennessee,⁷ and then resold to the Department. The great bulk of USF funding, however, would have been used to purchase wide-area network ("WAN") and internal connection equipment and facilities to construct a new state-wide WAN which ENA would own and use to deliver the Internet access purchased from the State to schools and other commercial customers.

The Department's claim that because there are no regional ISPs in Tennessee who can provide statewide Internet access, the USF should completely fund a start-up company to build and operate a privately-owned statewide WAN for the Department's use, simply does not follow logic (Department Request for Review, p. 11). As ISIS 2000 has already demonstrated, the USF program is not now and never was designed to fund publicly-owned regional WAN infrastructure costs, let alone privately-owned facilities. Moreover, the Department's claim regarding the lack of

⁷ As set forth in the RFP, the Department requested proposals on the basis of continuing to use the State backbone, State routers, and Internet services ". . . in order to achieve economies for all departments, including the schools, and to provide non-toll dial-up access to the Internet." RFP ¶¶ 5.3.4, 5.3.5 attached hereto as Attachment 2. If increased capacity was proposed over that provided by the State for \$2,013,200 annually, the RFP required that its cost be specified as an additional Backbone cost. These Backbone use and Internet access costs were set forth by ENA on the "State Backbone & Internet (b)" and "Any additional Backbone cost (c)" lines of its cost bid proposal. See ISIS 2000 Objection to Application and Request for Expedited Declaratory Ruling, Attachment H.

availability of low-cost Internet access in areas where most of Tennessee's schools are located (Department Request for Review, p. 11) is at best pure speculation, and is wholly unsupported.

ISIS 2000, for example, proposed to upgrade the Department's state-wide ConnectTEN network (which the Department would continue to fully own) to provide each school in Tennessee with at least T-1 Internet connectivity. ISIS 2000 would have done this by implementing a combination internal connections, telecommunications services purchased from BellSouth and other incumbent carriers, and backbone Internet access purchased from the State and other Internet backbone providers. ISIS 2000's proposal, which was accepted by the Department as a qualified bid, fully followed the FCC's rules regarding appropriate classification of equipment and services, and was \$23 million less than the ENA bid which the Department selected.

Yet, throughout this proceeding the Department has attempted to portray the ENA contract as the least-expensive, most cost-effective way to deliver Internet access in Tennessee. No actual factual support for these assertions has ever been provided by the Department. Furthermore, as the Department's competitive bidding process awarded the contract to the bidder who could maximize federal funding to the Department without increasing the Department's costs, there is no factual basis whatsoever for the Commission to find that the competitive bidding process

resulted in the selection of a truly cost-effective proposal, let alone one for the lowest pre-discount price.

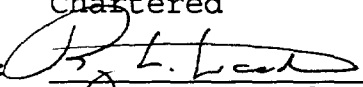
CONCLUSION

For these reasons, the Requests for Review filed by the Department and ENA should be denied and ISIS 2000's Request for Expedited Declaratory Ruling and Request for Review in Part granted.

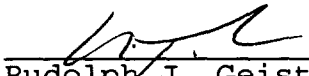
Respectfully submitted,

WILKES, ARTIS, HEDRICK & LANE,
Chartered

By:



Ramsey L. Woodworth



Rudolph J. Geist

Attorneys for Integrated Systems
and Internet Solutions, Inc.

1666 K Street, N.W., Suite 1100
Washington, DC 20006
202-457-7800

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ATTACHMENT 1

ISIS 2000
Pending Pleadings

<u>Pleadings</u>	<u>Filing Date</u>	<u>Documents Attached</u>
Objection to Application and Request for Expedited Declaratory Ruling	4/3/98	Department of Education Request for Proposals (excerpts) and related documents ENA Proposal (excerpts)
Supplement to Objection	4/20/98	ENA Contract and Amendment
Reply to Oppositions	4/27/98	Stapleton Study
Supplement to Reply	5/1/98	ENA Investment Proposal
Second Supplement to Reply	6/12/98	Tennessee State Information Systems Council Letter re use of system
Third Supplement to Reply	7/15/98	
Reply to Consolidated Response and Request	8/26/98	Transcripts of State Bid Protest Hearings

ATTACHMENT 2

State of Tennessee
Request for Proposals

Section 5.3 Cost Proposal
Attachment 9.2 Cost Proposal Format

as follows: Proposer offered equipment and bandwidth must provide throughput for a State school site using 30 simultaneous computers and State provided Internet browser to reach an Internet site that is equivalent or better than the existing throughput using State's existing network equipment, software, bandwidth and computer Internet browser. In a timed experiment of simultaneous strokes- All proposer equipment and bandwidth for school sites using 60 or 120 simultaneous computers must provide average throughput to reach an Internet site that is equivalent or better than the time for the average end user at a State specified demonstration school site using 30 simultaneous computers. All computers will use State provided Internet browser.

- 5.2.4.2.4 Life of Contract Functionality.** Describe how the proposer will handle new capabilities that emerge on the Internet and adjust to emerging standards and make these available to Tennessee schools over the life of the contract.
- 5.2.4.3 Proposers must provide a comprehensive narrative, captioned "Project Management," that illustrates how the Proposer will manage the project, ensure completion of the scope of services, and accomplish required objectives within the State's project schedule.**
- 5.2.4.3.1 Management Plan.** Describe how proposer will define its overall management strategy, implementation of new services, automated processes, timing of proposed changes, staffing and adjusting to the variations of funding through the FCC E-Rate discounts. In addition, the plan should describe how the proposer will:
- 5.2.4.3.11.** (a) meet end user requirements of support to the desktop and respond to varying degrees of technology skill within Local Education Agencies.
 - 5.2.4.3.12.** (b) manage existing relationships with 26 telephone companies both for any transition and future contracted arrangements.
 - 5.2.4.3.13.** (c) manage the current equipment vendor both for any transition and future arrangements.
 - 5.2.4.3.14.** (d) coordinate with State of Tennessee Office of Information Resources for backbone and Internet connections.
- 5.2.4.3.2 Maintenance and Support Criteria.** Proposers should state the target performance for frequency and the duration of outages that end users should expect due to hardware, software or communication line failures. Proposers should also state the maximum delay and the maximum duration of outages that end users will experience.
- 5.2.4.3.3 Management of Growth.** Describe how the proposer will manage growth of computers on the network, growth of any new sites being added to the network which are a part of Local Education Agencies and any sites added which are a part of private schools which are now eligible to be served by CompTEN.
- 5.2.4.3.4 Management of Email and Web services.** Describe how the proposer will handle ongoing email server capabilities and responsibilities and how these services would change over the life of the contract.
- 5.2.4.3.5 Department of Education Responsibilities.** Define any responsibilities that the proposer expects the Department of Education to provide.

5.3 Cost Proposal

The Cost Proposal shall be submitted to the State as a separate, sealed package from the Technical proposal.

The required format for the Cost Proposal is included as Attachment 9.2, Cost Proposal Format. The Cost Proposal to be detailed in this format shall include all costs proposed for the scope of services required by this RFP for the total contract period.

- 5.3.1 Costs that will be paid by the State and Local Education recurring resources cannot be subtracted from those that will be paid to the proposer from the FCC E-Rate Fund. The proposer must clearly show the capability that will be provided through State and Local recurring funds and the amount the State and Local agencies must pay for these services. RFP services should also be identified which will be provided as a result of eligibility and funding from the FCC E-Rate Fund. For example, one level of functionality might be proposed using State and Local funds solely, and a higher level of functionality might be proposed when the FCC E-Rate funds are included. **The proposer must clearly identify the capability that will be provided for every period throughout the life of the contract, if the E-Rate funding is not available in any period.** Any consideration of purchase of existing equipment, resale, or salvage of existing equipment shall be calculated as savings to the State and Local recurring resources. **Salvage value shall be due as of July 1, 1998. Salvage value is determined by the proposer and may be received as a credit to the State contract, beginning July 1, 1998 until all of the salvage value has been received and no later than September 30, 1998.** It is the intent of the State to submit to the FCC E-Rate Fund all of its current State and Local costs, and all of its potential savings to be eligible for discounts and apply the discounts to increase the ConnectTEN functionality. Attached spreadsheet(s) must be submitted in Excel version 5.0 format. See web site for downloadable version, <http://www.connect-tn.org/rfp>
- 5.3.2 The proposer Cost Proposals will be evaluated on the sum total of State and Local funding, any other identified funding and savings combined with the FCC E-Rate funds that are paid to the proposer based on the formula described in Proposal Evaluation, Section 6.2. If the proposer is not willing to be a vendor that submits its invoices to the FCC E-Rate fund for payment, the state will consider the proposal to be non-responsive and reject it.
- 5.3.3 It is the proposer's responsibility to be aware of FCC E-Rate rules and procedures and to be fully compliant as a vendor of services so that the State of Tennessee can submit its applications for services that can be subsidized by FCC E-Rate discounts. It is further the responsibility of the proposer to indicate clearly the total amount that is to be submitted to the FCC E-Rate fund (including State and Local funds, any other funds and any savings) and the amount that will be paid by the FCC to the proposer. For purposes of this RFP **Amended**, the State Department of Education is eligible for a **66%** aggregated discount based on its enrollment and free and reduced lunch students. The State may change this number by the date due for written classifications. For purposes of this RFP, the State Department of Education has indicated its Current Expenditures in the Cost Proposal Format and also shown the total amount that will be available from the FCC E-Rate fund based on the State's discount **using current contracts**. If the proposer fails to follow **the calculations described in Section 6.2.7** in submitting its Cost Proposal, the State may determine the proposal to be non-responsive and reject it. **If the Proposer fails to detail all cost information for the services proposed as required, the State may determine the proposal to be non-responsive and reject it.**
- 5.3.4 It is the proposer's responsibility as part of its network design to predict the total cost of the network including costs associated with a minimum T-1 access link from the county ECR to the State Backbone and the Internet. This link currently provides the direct connection and supports non-toll dial-up services within every county at speed of 28.8kps. The State Department of Education is currently paying \$21,192 for each of 95 T-1 capacity access points for a total of \$2,013,200 annually. This cost includes all use of the State backbone, State routers and Internet services. If, based on providing increased functionality and/or bandwidth at school sites, the proposer determines that increased capacity is required, i.e., a proposal to increase functionality and bandwidth within the county, the proposer shall identify how much additional bandwidth is needed in the county-to-Internet link, and show the cost in Cost Format Attachment 9.2.
- 5.3.5 The State has an expressed preference for continued use of the State Backbone in order to achieve economies for all departments, including the schools, and to provide non-toll dial-up access to the Internet.

However, as an option, the proposer may offer an alternative network configuration which provides the necessary network capacities, but which may be offered at a different total cost for backbone and Internet. Such rate shall include all of the same capabilities as are currently available to the State Department of Education for its schools to access the Internet, including non-toll dial-up services in each county, as well as those defined by the proposer's additional functionalities. This network configuration must be described in sufficient technical detail with volume calculations to provide adequate evaluation of proposed network design. Configuration should include number and location of access points to State Backbone, if any, capacity and cost of all proposed access points to a backbone, cost and capacity of the backbone, and capacity, cost and number of access points to reach the Internet. The cost for using a State network access point, of a T-1 capacity, is defined in Attachment 9.2. This cost rate may be used or an alternative may be proposed in the Optional Cost Proposal. All cost elements must be submitted only in the Cost Proposal. Any one-time costs or transition costs will be the responsibility of the proposer.

ATTACHMENT 9.2

COST PROPOSAL FORMAT

RFS # 97-2

Proposer Name

Refer to pages 43 and following.

Current Expenditures

<u>Type of Expense</u>	<u># of Sites</u>	<u>Annual Cost</u> <u>Per/site</u>	<u>Current annual</u> <u>Expenditure</u>	<u>Current Cost</u> <u>per local site</u>
Local Site connection:				
Sites with < 30 computers	400	\$720.00		
Sites with 30-60 computers	1000	\$720.00		
Sites with 61-120 computers	300	\$720.00		
Sites with >120 computers	100	\$720.00		
Subtotal for local sites paid by Local Educ. Agencies	1800		\$1,296,000	\$720
Equipment Maintenance:				
Sites with < 30 computers (a)	400	\$245.00		
Sites with 30-60 computers	1000	\$245.00		
Sites with 61-120 computers	300	\$245.00		
Sites with >120 computers	100	\$245.00		
Subtotal local site maint.	1800		\$441,000	
Subtot: ECR maint: 1/county (b)	95	\$4,850	\$460,749	
Subtotal: all maintenance			\$901,749	\$501
Network Operations:				
	1800			
Operations hardware, software and personnel		\$825,000		
800 line for end users		\$15,000		
email server maintenace		\$30,000		
Subtotal: all network operations			\$870,000	\$483
State Backbone & Internet (connection: 1 per county) (b)	95	\$21,192	\$2,013,200	\$1,118
Total paid by State Dept of Educ.			\$3,784,949	\$1,704
Total State & Local: 1 year * (c)			\$5,080,949	*approx. 100
Total paid by State: 3.5 years			\$13,247,322	sites are paid
Total State & Local 3.5 years			\$17,783,322	entirely by local sources
Services Eligible for FCC funds				
	<u>Disc %</u> (d)	<u>Eligible</u> <u>Amount</u>	<u>Discount paid to</u> <u>Contractors by FCC</u>	
Current ConnectTEN Costs	66%	\$5,080,949	\$3,353,426	

Note: Based on FCC rules for existing contracts, this is the amount that is being prorated for 6 months and submitted for reimbursement to current vendors. See example in Section 6.2.7 for cost formula used in evaluation. It is proposer's responsibility to determine E-rate payment and eligibility

Supplementary Notes for Current Expenses and FCC Discounts:

- (a) All Local Site Connections, no matter the number of computers, are provided the same functionality and bandwidth. It is anticipated that the number of computers might vary; this. For consistency, sites are categorized in terms of the number of computers. All proposers must use these same categories, though it is not required to have a different cost rate for each category, **nor to use all categories.**
- (b) EIR maintenance is based on having one server router in each county, with a total cost for all connections at the amount indicated. To ensure consistency, the State Backbone and Internet is also shown. For each of these connections, one per county. The rate for each connection is the same. The State Backbone is an amount that is paid to the State of Tennessee, Office of Information Resources. The rate is based on a T-1 capacity. The rate for the State of Tennessee, Office of Information Resources, if the current network configuration is adopted, is the same as the rate for the State of Tennessee, Office of Information Resources.
- (c) Total State & Local: 1 year is based on a combined total of 1800 sites as shown in the chart for a total current amount of \$3,680,949. Approximately 100 of the 1800 sites are entirely paid by local sources. These sites and their associated costs are included in their respective categories: Local Site Connections and Equipment Maintenance.
- (d) The Discount % for aggregation for the ConnectTEN network **was estimated in the original RFP as 60%. Based on the FCC E-Rate rules, the amended RFP will use an aggregated percentage of 66% for 1998. This percentage is subject to approval by the FCC, and subject to change in future years. All references to 60% throughout the proposal would then be adjusted to reflect the new state specified discount percentage.**

Cost Proposal: State Backbone (page 1 of 2) Columns continue on page 2**Proposed Type of Expense****# of 6 mo. Per**
Sites site cost**Comments on completing rows**
when using State Backbone Cost Proposal**Local Site total costs: (a)**

Sites with < 30 computers

400

Sites with 30-60 computers

1000

Sites with 61-120 computers

300

Sites with >120 computers

100

Subtotal for local sites

1800

Use # of sites multiplied by "6 mo. Per site cost" for each category that applies to proposer's design and place this calculation in "1st 6 month, Jul-Dec 98" thereafter, proposer may modify the # of sites, but 6 mo. Per site cost must remain the same throughout contract

State Backbone & Internet (b)

95

\$10,596

Any additional Backbone cost (c)

use formula for this option determined by vendor

Other one-time costs (c)

determined by vendor

Other recurring costs (c)

determined by vendor

Total All Costs (h)

(sum check) (h)

sum of all network costs

check of total column to compare to sum of rows

Sources of Payments(d)

Amount paid by State & Local*** (d.i)

see explanatory notes

Amount of Other Funding offered

by proposer (d.ii)

see explanatory notes

Savings from existing State & Local

paid to proposer for expansion (d.iii)

see explanatory notes

Discount paid by FCC to proposer (d.iv)

see explanatory notes

Total All Payments: * (d.v)**

(sum check)

sum of all network payments to proposer

check of total column to compare to sum of rows

Total Savings proposed by vendor

under current state & local costs (e)

see explanatory notes

Calculations of FCC discount
for each 6 mo. Period**Disc**
% **

Costs eligible for FCC discount

66%

see FCC E-Rate rules

Costs ineligible for FCC discount

0%

see FCC E-Rate rules

Sum of all discounts from FCC

(sum check)

sum of all FCC payments to proposer

check of total column to compare to sum of rows

*See explanatory note (g)

**See explanatory note (f)

***See explanatory note (h)

Cost Proposal: State Backbone (page 2 of 2)

1st 6 mo. 2nd 6 mo. 3rd 6 mo. 4th 6 mo. 5th 6 mo. 6th 6 mo. 7th 6 mo. Total
Jul-Dec 98* Jan-Jun 99* Jul-Dec 99* Jan-Jun 00* Jul-Dec 00* Jan-Jun 01* Jul-Dec 01* 3.5 yrs***

Complete							
column							
for each							
six month							
period							

Total all							
rows							
in final							
3.5 yr.							
column							

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1st 6 mo. 2nd 6 mo. 3rd 6 mo. 4th 6 mo. 5th 6 mo. 6th 6 mo. 7th 6 mo. Total
Jul-Dec 98* Jan-Jun 99* Jul-Dec 99* Jan-Jun 00* Jul-Dec 00* Jan-Jun 01* Jul-Dec 01* 3.5 yrs***

Explanatory Notes for Cost Proposal Using State Backbone:

- (a) All Local Site Connections must be shown with a cost per site. For consistency, sites are described in terms of the number of computers. All proposers must use these same categories, although it is not required to have a different cost rate for each category, nor to use all categories.
- (b) For this Cost Proposal, a State Backbone & Internet connection is a requirement at all 95 county sites. The rate is based on a T-1 capacity. This amount is required, if the current network configuration is adopted by the proposer, and the amount is paid to the State of Tennessee, Office of Information Resources.
- (c) The proposer must also specify Any Additional Backbone or Other Costs that the proposer expects to occur as a result in increased functionality.
- (d) Sources of Payment:
 - (i) State and Local funds will be used to pay the proposer's cost (amount paid by State & Local). May not exceed \$5,080,949 in any fiscal year. The Denominator of Cost Factor is this amount for 3.5 years (Section 6.2.7).
 - (ii) Other Funding offered by the proposer could be an amount offered to the state as salvage value for state's existing equipment. Salvage must be available July 1, 1998 at the start of the contract.
 - (iii) Savings is any amount offered by the proposer less than the State's maximum as stated in Item (i) above.
 - (iv) Discount is paid by FCC to proposer and is derived in 1998 by applying the state's aggregated discount to E-Rate eligible services. The FCC will pay this amount directly to the proposer, and the percentage is subject to FCC approval.
 - (v) Total All Payments is the sum of all of the items (i) through (iv) above. The Numerator of the Cost Factor is the amount for 3.5 years. (Sec. 6.2.7)
- (e) Savings is the same as Item (iii) above.
- (f) The discount is stated in the RFP as 60% and revised in RFP97-2 Amended to be 66%. The discount is dependent in future years on FCC E-Rate rules on aggregated cost calculations.
- (g) Proposer to provide cost for each cell with grid borders. (Also shown with \$0 on electronic spreadsheet)
- (h) Proposer to use State formula where shown on electronic spreadsheet.

Cost Proposal: Optional Network Cost
(page 1 of 2)

Columns continue on page 2

Proposed Type of Expense# of 6 mo. Per
Sites site costComments on completing rows
when using Optional Cost Proposal**Local Site total costs: (a)**

Sites with < 30 computers

400

Sites with 30-60 computers

1000

Sites with 61-120 computers

300

Sites with >120 computers

100

Subtotal for local sites

1800

Use # of sites multiplied by "6 mo. Per site cost"
for each category that applies to proposer's design
and place this calculation in "1st 6 month, Jul-Dec 98"
thereafter, proposer may modify the # of sites, but
6 mo. Per site cost must remain the same throughout
contract**Any State Backbone & Internet (b)**

0

\$10,596 determined by vendor

Any additional Backbone cost (c)

determined by vendor

Other one-time costs (c)

determined by vendor

Other recurring costs (c)

determined by vendor

Total All Costs (h)

sum of all network costs

(sum check) (h)

check of total column to compare to sum of rows

Sources of Payments(d)

Amount paid by State & Local*** (d.i)

see explanatory notes

Amount of Other Funding offered
by proposer (d.ii)

see explanatory notes

Savings from existing State & Local
paid to proposer for expansion (d.iii)

see explanatory notes

Discount paid by FCC to proposer (d.iv)

see explanatory notes

Total All Payments: * (d.v)**

sum of all network payments to proposer

(sum check)

check of total column to compare to sum of rows

Total Savings proposed by vendor**under current state & local costs (e)**

see explanatory notes

**Calculations of FCC discount
for each 6 mo. Period****Disc**
% **

Costs eligible for FCC discount

66%

see FCC E-Rate rules

Costs ineligible for FCC discount

0%

see FCC E-Rate rules

Sum of all discounts from FCC

sum of all FCC payments to proposer

(sum check)

check of total column to compare to sum of rows

*See explanatory note (g)

**See explanatory note (f)

***See explanatory note (h)

Cost Proposal: Optional Network (page 2 of 2)

1st 6 mo. 2nd 6 mo. 3rd 6 mo. 4th 6 mo. 5th 6 mo. 6th 6 mo. 7th 6 mo. Total
Jul-Dec 98* Jan-Jun 99* Jul-Dec 99* Jan-Jun 00* Jul-Dec 00* Jan-Jun 01* Jul-Dec 01* 3.5 yrs***

Complete							
column							
for each							
six month							
period							

Total all							
rows							
in final							
3.5 yr.							
column							

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1st 6 mo. 2nd 6 mo. 3rd 6 mo. 4th 6 mo. 5th 6 mo. 6th 6 mo. 7th 6 mo. Total
Jul-Dec 98* Jan-Jun 99* Jul-Dec 99* Jan-Jun 00* Jul-Dec 00* Jan-Jun 01* Jul-Dec 01* 3.5 yrs***

Explanatory Notes for Optional Cost Proposal

All notes are the same as for the Cost Proposal, except Note (b). In this Optional Cost Proposal, proposer can determine the cost of the backbone.. The proposer must calculate any use of the State Backbone based on the T-1 capacity rate multiplied by the number that the proposer specifies as the number of access points. The proposer must also include any additional Backbone cost, determined by the proposer.

[Attached spreadsheet(s), to be completed and returned in Excel 95 format, version
Downloadable version of spreadsheet available on web site: <http://www.connect-tn.com> rfp

The proposed cost contained herein and the submitted technical proposal associated with this cost shall remain valid for at least one hundred twenty days (120) days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any resulting contract between the Proposer and the State.

Proposer Signature and Date

CERTIFICATE OF SERVICE

I, Ramsey L. Woodworth, hereby certify that copies of the foregoing pleading were served this 13th day of April, 1999, via first-class mail, postage prepaid, to the following individuals at the addresses listed below:

William Kennard, Chairman
Federal Communications Commission
The Portals
445 Twelfth Street, SW
12th Street Lobby, 8th Floor
Washington, DC 20554

Commissioner Michael K. Powell
Federal Communications Commission
The Portals
445 Twelfth Street, SW
12th Street Lobby, 8th Floor
Washington, DC 20554

Commissioner Gloria Tristani
Federal Communications Commission
The Portals
445 Twelfth Street, SW
12th Street Lobby, 8th Floor
Washington, DC 20554

Commissioner Harold Furchgott-Roth
Federal Communications Commission
The Portals
445 Twelfth Street, SW
12th Street Lobby, 8th Floor
Washington, DC 20554

Commissioner Susan Ness
Federal Communications Commission
The Portals
445 Twelfth Street, SW
12th Street Lobby, 8th Floor
Washington, DC 20554

Irene Flannery, Esq.
Chief, Accounting Policy Division
Common Carrier Bureau
Federal Communications Commission
The Portals
445 Twelfth Street, SW
12th Street Lobby, 8th Floor
Washington, DC 20554

Kate Moore, CEO
Universal Service Administrative Co.
Schools & Libraries Division
2120 L Street, NW, Suite 600
Washington, D.C. 20037

Debra Kriete, Esq.
General Counsel
Universal Service Administrative Co.
Schools & Libraries Division
2120 L Street, NW, Suite 600
Washington, D.C. 20037


Lisa Zaina, Acting Deputy Bureau
Chief
Common Carrier Bureau
Federal Communications Commission
The Portals
445 Twelfth Street, SW
12th Street Lobby, 8th Floor
Washington, DC 20554

William K. Coulter, Esq.
Coudert Brothers
1627 I Street, N.W., Suite 1200
Washington, D.C. 20006
Counsel to Tennessee Dept. of
Education

Christopher J. Wright, Esq.
General Counsel
Federal Communications Commission
The Portals
445 Twelfth Street, SW
12th Street Lobby, 8th Floor
Washington, DC 20554

Jeffrey S. Linder, Esq.
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006
Counsel to Education Networks of
America

Lawrence E. Strikling, Chief
Common Carrier Bureau
Federal Communications Commission
The Portals
445 Twelfth Street, SW
12th Street Lobby, 8th Floor
Washington, DC 20554



Ramsey L. Woodworth

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